

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY SALUTE
Supervising Deputy Attorney General
3 ALVARO MEJIA, State Bar No. 216956
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0083
6 Facsimile: (213) 897-1071

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **KIMBERLY DIANE O'BRIEN,**
14 **aka KIMBERLY OBRIEN,**
15 **aka KIMBERLY DIANE COCHRUN**

16 1704 Rice Avenue
Turlock, CA 95382

17 Registered Nurse License No. 556114

Respondent.

Case No. 2006-252

OAH No. L-2008031035

SECOND AMENDED

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in
her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about June 25, 1999, the Board of Registered Nursing ("Board")
23 issued Registered Nurse License Number 556114 to Kimberly Diane O'Brien, also known as
24 Kimberly Obrien, and also known as Kimberly Diane Cochrun ("Respondent"). The license was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 January 31, 2009, unless renewed.

27 ///

28 ///

STATUTORY PROVISIONS

3. Section 490 of the Business and Professions Code ("Code") provides:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

4. Code section 2750 provides:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein."

5. Code section 2761 provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

6. Code section 2762 provides, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1 (b) Use any controlled substance as defined in Division 10
2 (commencing with Section 11000) of the Health and Safety Code,
3 or any dangerous drug or dangerous device as defined in Section
4 4022, or alcoholic beverages, to an extent or in a manner
5 dangerous or injurious to himself or herself, any other person, or
6 the public or to the extent that such use impairs his or her ability to
7 conduct with safety to the public the practice authorized by his her
8 license.

9 (c) Be convicted of a criminal offense involving the
10 prescription, consumption, or self-administration of any of the
11 substances described in subdivisions (a) and (b) of this section,
12 or the possession of, or falsification of a record pertaining to, the
13 substances described in subdivision (a) of this section, in which
14 event the record of the conviction is conclusive evidence thereof.

15 (e) Falsify, or make grossly incorrect, grossly
16 inconsistent, or unintelligible entries in any hospital, patient, or
17 other record pertaining to the substances described in subdivision
18 (a) of this section."

19 7. Code section 4022 provides:

20 "Dangerous drug' or 'dangerous device' means any drug or
21 device unsafe for self-use in humans or animals, and includes the
22 following:

23 (a) Any drug that bears the legend: 'Caution: federal law
24 prohibits dispensing without prescription,' 'Rx only,' or words of
25 similar import.

26 (b) Any device that bears the statement: 'Caution:
27 federal law restricts this device to sale by or on the order of a
28 _____,' 'Rx only,' or words of similar import, the blank to
be filled in with the designation of the practitioner licensed to use
or order use of the device.

(c) Any other drug or device that by federal or state law
can be lawfully dispensed only on prescription or furnished
pursuant to Section 4006."

8. Health and Safety Code section 11350, subdivision (a), provides:

"(a) Except as otherwise provided in this division, every
person who possesses (1) any controlled substance specified in
subdivision (b) or (c), or paragraph (1) of subdivision (f) of
Section 11054, specified in paragraph (14), (15), or (20) of
subdivision (d) of Section 11054, or specified in subdivision (b) or
(c) of Section 11055, or specified in subdivision (h) of Section
11056, or (2) any controlled substance classified in Schedule III,
IV, or V which is a narcotic drug, unless upon the written
prescription of a physician, dentist, podiatrist, or veterinarian
licensed to practice in this state, shall be punished by
imprisonment in the state prison."

1 9. Health and Safety Code section 11173, subdivision (a), provides:

2 “(a) No person shall obtain or attempt to obtain controlled
3 substances, or procure or attempt to procure the administration of
4 or prescription for controlled substances, (1) by fraud, deceit,
 misrepresentation, or subterfuge; or (2) by the concealment of a
 material fact.”

5 10. Code section 125.3 provides that the Board may request the administrative law
6 judge to direct a licensee found to have committed a violation or violations of the licensing act
7 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8 **DRUGS**

9 11. “Demerol” is a brand name for Meperidine Hydrochloride, also known as
10 Pethidine, a Schedule II controlled substance as designated by Health and Safety Code section
11 11055, subdivision (c)(17), and a dangerous drug within the meaning of Code section 4022.

12 12. “Fentanyl Citrate” is a Schedule II controlled substance as designated by Health
13 and Safety Code section 11055, subdivision (c)(8), and a dangerous drug within the meaning of
14 Code section 4022.

15 13. “Morphine” is a Schedule II controlled substance as designated by Health and
16 Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug with the meaning
17 of Code section 4022.

18 14. “Valium” is a brand of diazepam, a Schedule IV controlled substance as
19 designated by Health and Safety Code section 11057, subdivision (d)(9), and a dangerous drug
20 with the meaning of Code section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Conviction of Crime)

23 15. Respondent’s license is subject to discipline under Code sections 490
24 and 2761, subdivision (f), for conviction of crimes substantially related to the qualifications,
25 functions, or duties of a registered nurse, in that on or about August 4, 2004, in the case entitled,
26 *The People v. Kimberly Obrien* (Super. Ct. Orange County, 2004, No. 04SF0430), Respondent
27 was convicted by the court upon a plea of guilty on two counts of violating Health and Safety
28 Code section 11173, subdivision (a) (obtaining a controlled substance by fraud), and two counts

1 of violating Health and Safety Code section 11350, subdivision (a) (unlawful possession of
2 controlled substances), all felonies.

3 16. As set forth in the felony complaint, the circumstances of the conviction are that
4 on or about April 8, 2002, and April 13, 2002, Respondent unlawfully obtained and attempted to
5 obtain the controlled substance Fentanyl Citrate, and did procure and attempt to procure the
6 administration of and prescription for said controlled substance by fraud, deceit,
7 misrepresentation, subterfuge, and concealment of a material fact (Health & Saf. Code, § 11173,
8 subd. (a)); and, on or about April 12, 2002, and April 14, 2002, Respondent unlawfully had in
9 her possession a controlled substance, Fentanyl Citrate (Health & Saf. Code, § 11350, subd. (a)).

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Conviction of Criminal Offenses Involving the
12 Possession of a Controlled Substance)

13 17. Respondent's license is subject to discipline under Code section 2761,
14 subdivision (a), for acts of unprofessional conduct, as defined by Code section 2762, subdivision
15 (c) (conviction of criminal offenses involving the prescription, consumption, self-administration,
16 or possession of a controlled substance), in that, as set forth under paragraphs 15 and 16
17 above, Respondent was convicted of offenses involving the possession of Fentanyl Citrate.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (False, Grossly Incorrect, or Grossly Inconsistent Record Entries)

20 18. Respondent's license is subject to discipline under Code section 2761,
21 subdivision (a), for acts of unprofessional conduct, as defined by Code section 2762, subdivision
22 (e) (false, grossly incorrect, or grossly inconsistent record entries), in that Respondent made the
23 following false, grossly incorrect, or grossly inconsistent entries in hospital, patient, or other
24 records pertaining to controlled substances:

25 ///

26 ///

27 ///

28 ///

a. **Saddleback Memorial Center, Laguna Hills, California.**

1. Patient S. C. (#400637). On or about April 8, 2002, at approximately 1216 hours, without a physician's order to do so, Respondent obtained one 250mg. Fentanyl Citrate tablet for administration to Patient S. C. (#400637) by accessing the Pyxis medication dispensing system using the access code of another nurse. On the same day, at approximately 1557 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl Citrate tablets for administration to Patient S. C. (#400637) by accessing the Pyxis medication dispensing system using the access code of another nurse. Thereafter, Respondent failed to record or document the administration of that medication on any patient medication administration record, or to otherwise account for the disposition of that medication.

2. Patient P. L. (#438996). On or about April 8, 2002, at approximately 1344 hours, without a physician's order to do so, Respondent obtained one 250mg. Fentanyl Citrate tablet for administration to Patient M. R. (#438996) by accessing the Pyxis medication dispensing system using the access code of another nurse. Thereafter, Respondent failed to record or document the administration of that medication on any patient medication administration record, or to otherwise account for the disposition of that medication.

3. Patient S. V. (#206552). On or about April 8, 2002, at approximately 1927 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl Citrate tablets for administration to Patient S. V. (#206552) by accessing the Pyxis medication dispensing system using the access code of another nurse. Thereafter, Respondent failed to record or document the administration of that medication on any patient medication administration record, or to otherwise account for the disposition of that medication.

4. Patient L. J. (#443745). On or about April 12, 2002, at approximately 0715 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl Citrate tablets for administration to Patient L. J. (#443745) by accessing the Pyxis medication dispensing system using the access code of another nurse. Thereafter, Respondent failed to record or document the administration of that medication on any patient medication administration record, or to otherwise account for the disposition of that medication.

1 5. Patient S. A. (#449635). On or about April 12, 2002, at approximately
2 1027 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl
3 Citrate tablets for administration to Patient S. A. (#449635) by accessing the Pyxis medication
4 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
5 record or document the administration of that medication on any patient medication
6 administration record, or to otherwise account for the disposition of that medication.

7 6. Patient P. M. (#449508). On or about April 12, 2002, at approximately
8 1318 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl
9 Citrate tablets for administration to Patient P. M. (#449508) by accessing the Pyxis medication
10 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
11 record or document the administration of that medication on any patient medication
12 administration record, or to otherwise account for the disposition of that medication.

13 7. Patient S. J. (#409457). On or about February 12, 2002, at
14 approximately 1750 hours, without a physician's order to do so, Respondent obtained two
15 Fentanyl Citrate tablets for administration to Patient S. J. (#409457) by accessing the Pyxis
16 medication dispensing system using the access code of another nurse. Thereafter, Respondent
17 failed to record or document the administration of that medication on any patient medication
18 administration record, or to otherwise account for the disposition of that medication.

19 8. Patient S. E. V. (#448910). On or about April 13, 2002, at
20 approximately 1104 hours, without a physician's order to do so, Respondent obtained two
21 250mg. Fentanyl Citrate tablets for administration to Patient S. E. V. (#448910) by accessing
22 the Pyxis medication dispensing system using the access code of another nurse. Thereafter,
23 Respondent failed to record or document the administration of that medication on any patient
24 medication administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 9. Patient M. M. (#451435). On or about April 13, 2002, at
2 approximately 1241 hours, without a physician's order to do so, Respondent obtained two
3 250mg. Fentanyl Citrate tablets for administration to Patient M. M. (#451435) by accessing the
4 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
5 Respondent failed to record or document the administration of that medication on any patient
6 medication administration record, or to otherwise account for the disposition of that medication.

7 10. Patient N. W. A. (#448711). On or about April 13, 2002, at
8 approximately 1450 hours, without a physician's order to do so, Respondent obtained one
9 250mg. Fentanyl Citrate tablet for administration to Patient N. W. A. (#448711) by accessing
10 the Pyxis medication dispensing system using the access code of another nurse. That same day,
11 at approximate 1926 hours, without a physician's order to do so, Respondent obtained three
12 250mg. Fentanyl Citrate tablets for administration to Patient N. W. A. (#448711) by accessing
13 the Pyxis medication dispensing system using the access code of another nurse. Thereafter,
14 Respondent failed to record or document the administration of that medication on any patient
15 medication administration record, or to otherwise account for the disposition of that medication.

16 11. Patient P. C. (#369192). On or about April 14, 2002, at
17 approximately 1530 hours, without a physician's order to do so, Respondent obtained two
18 Fentanyl Citrate 250mg. tablets for administration to Patient P. C. (#369192) by accessing the
19 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
20 Respondent failed to record or document the administration of that medication on any patient
21 medication administration record, or to otherwise account for the disposition of that medication.

22 12. Patient E. C. (#450732). On or about April 13, 2002, at
23 approximately 1830 hours, without a physician's order to do so, Respondent obtained two
24 Fentanyl Citrate 250mg. tablets for administration to Patient E. C. (#450732) by accessing the
25 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
26 Respondent failed to record or document the administration of that medication on any patient
27 medication administration record, or to otherwise account for the disposition of that medication.

28 ///

1 13. Patient B.L. (#44315). On or about April 15, 2002, at approximately
2 1042 hours, without a physician's order to do so, Respondent obtained three Fentanyl Citrate
3 250mg. tablets for administration to Patient B. L. (#44315) by accessing the Pyxis medication
4 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
5 record or document the administration of that medication on any patient medication
6 administration record, or to otherwise account for the disposition of that medication.

7 14. Patient N. R. (#376560). On or about April 17, 2002, at
8 approximately 0704 hours, without a physician's order to do so, Respondent obtained two
9 Fentanyl Citrate 250mg. tablets for administration to Patient N. R. (#376560) by accessing the
10 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
11 Respondent failed to record or document the administration of that medication on any patient
12 medication administration record, or to otherwise account for the disposition of that medication.

13 15. Patient M. P. (#415645). On or about April 17, 2002, at
14 approximately 0826 hours, without a physician's order to do so, Respondent obtained one
15 Fentanyl Citrate 250mg. tablet for administration to Patient M. P. (#415645) by accessing the
16 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
17 Respondent failed to record or document the administration of that medication on any patient
18 medication administration record, or to otherwise account for the disposition of that medication.

19 16. Patient T. K. (#245612). On or about April 17, 2002, at
20 approximately 1519 hours, without a physician's order to do so, Respondent obtained two
21 Fentanyl Citrate 250mg. tablets for administration to Patient T. K. (#245612) by accessing the
22 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
23 Respondent failed to record or document the administration of that medication on any patient
24 medication administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 17. Fictitious "Patient Skirvin." On or about April 17, 2002, at
2 approximately 1923 hours, Respondent obtained two 250mg. Fentanyl Citrate tablets for
3 administration to a fictitious "Patient Skirvin" by accessing the Pyxis medication dispensing
4 system using the access code of another nurse. Thereafter, Respondent failed to record or
5 document the administration of that medication on any patient medication administration record,
6 or to otherwise account for the disposition of that medication.

7 18. Patient A. I. G. (#375256). On or about April 20, 2002, at
8 approximately 1041 hours, without a physician's order to do so, Respondent obtained two
9 Fentanyl Citrate 250mg. tablets for administration to Patient A. I. G. (#375256) by accessing the
10 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
11 Respondent failed to record or document the administration of that medication on any patient
12 medication administration record, or to otherwise account for the disposition of that medication.

13 19. Patient H. H. R. (#453264). On or about April 20, 2002, at
14 approximately 1326 hours, without a physician's order to do so, Respondent obtained two
15 Fentanyl Citrate 250mg. tablets for administration to Patient H. H. R. (#453264) by accessing the
16 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
17 Respondent failed to record or document the administration of that medication on any patient
18 medication administration record, or to otherwise account for the disposition of that medication.

19 20. Patient O. M. (#441343). On or about April 20, 2002, at
20 approximately 1707 hours, without a physician's order to do so, Respondent obtained two
21 Fentanyl Citrate 250mg. tablets for administration to Patient O. N. (#441343) by accessing
22 the Pyxis medication dispensing system using the access code of another nurse. Thereafter,
23 Respondent failed to record or document the administration of that medication on any patient
24 medication administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 21. Patient M. Y. (#434492). On or about April 22, 2002, at
2 approximately 1427 hours, without a physician's order to do so, Respondent obtained two
3 Fentanyl Citrate 250mg. tablets for administration to Patient M. Y. (#434492) by accessing the
4 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
5 Respondent failed to record or document the administration of that medication on any patient
6 medication administration record, or to otherwise account for the disposition of that medication.

7 22. Patient B. L. R. (#433207). On or about April 22, 2002, at
8 approximately 1606 hours, without a physician's order to do so, Respondent obtained two
9 Fentanyl Citrate 250mg. tablets for administration to Patient B. L. R. (#433207) by accessing the
10 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
11 Respondent failed to record or document the administration of that medication on any patient
12 medication administration record, or to otherwise account for the disposition of that medication.

13 23. Patient D. S. (#453937). On or about April 22, 2002, at
14 approximately 1717 hours, without a physician's order to do so, Respondent obtained two
15 Fentanyl 250mg. tablets for administration to Patient D. S. (#453937) by accessing the Pyxis
16 medication dispensing system using the access code of another nurse. Thereafter, Respondent
17 failed to record or document the administration of that medication on any patient medication
18 administration record, or to otherwise account for the disposition of that medication.

19 24. Patient M. M. (#451149). On or about April 26, 2002, at
20 approximately 1311 hours, without a physician's order to do so, Respondent obtained one
21 Fentanyl Citrate 250mg. tablet for administration to Patient M. M. (#451149) by accessing the
22 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
23 Respondent failed to record or document the administration of that medication on any patient
24 medication administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 25. Patient B. M. (#437556). On or about April 26, 2002, at
2 approximately 1509 hours, without a physician's order to do so, Respondent obtained one
3 250mg. Fentanyl Citrate tablet for administration to Patient B. M. (#437556) by accessing the
4 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
5 Respondent failed to record or document the administration of that medication on any patient
6 medication administration record, or to otherwise account for the disposition of that medication.

7 26. Patient R. J. (#266735). On or about April 27, 2002, at approximately
8 0842 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
9 250mg. tablets for administration to Patient R. J. (#266735) by accessing the Pyxis medication
10 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
11 record or document the administration of that medication on any patient medication
12 administration record, or to otherwise account for the disposition of that medication.

13 27. Patient S. S. (#454197). On or about April 27, 2002, at approximately
14 1125 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
15 250mg. tablets for administration to Patient S. S. (#454197) by accessing the Pyxis medication
16 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
17 record or document the administration of that medication on any patient medication
18 administration record, or to otherwise account for the disposition of that medication.

19 28. Patient F. M. (#449233). On or about April 27, 2002, at
20 approximately 1424 hours, without a physician's order to do so, Respondent obtained two
21 Fentanyl Citrate 250mg. tablets for administration to Patient F. M. (#449233) by accessing the
22 Pyxis medication dispensing system using the access code of another nurse. Thereafter,
23 Respondent failed to record or document the administration of that medication on any patient
24 medication administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 29. Patient S. J. (#369769). On or about April 27, 2002, at approximately
2 1724 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
3 250mg. tablets for administration to Patient S. J. (#369769) by accessing the Pyxis medication
4 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
5 record or document the administration of that medication on any patient medication
6 administration record, or to otherwise account for the disposition of that medication.

7 30. Patient I. C. (#439645). On or about April 27, 2002, at approximately
8 1920 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
9 250mg. tablets for administration to patient I. C. (#439645) by accessing the Pyxis medication
10 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
11 record or document the administration of that medication on any patient medication
12 administration record, or to otherwise account for the disposition of that medication.

13 31. Patient G. J. (#454547). On or about May 1, 2002, at approximately
14 0728 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
15 250mg. tablets for administration to Patient G. J. (#454547) by accessing the Pyxis medication
16 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
17 record or document the administration of that medication on any patient medication
18 administration record, or to otherwise account for the disposition of that medication.

19 32. Patient G. D. (#377655). On or about May 1, 2002, at approximately
20 0836 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
21 250mg. tablets for administration to Patient G. D. (#377655) by accessing the Pyxis medication
22 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
23 record or document the administration of that medication on any patient medication
24 administration record, or to otherwise account for the disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 33. Patient S. K. M. (#450616). On or about May 1, 2002, at
2 approximately 1803 hours, without a physician's order to do so, Respondent obtained two
3 Fentanyl Citrate 250mg. tablets for administration to Patient S. K. M. (#450616) by accessing
4 the Pyxis medication dispensing system using the access code of another nurse. Thereafter,
5 Respondent failed to record or document the administration of that medication on any patient
6 medication administration record, or to otherwise account for the disposition of that medication.

7 34. Patient C. H. A. (#449836). On or about May 4, 2002, at
8 approximately 0740 hours, Respondent obtained two Fentanyl Citrate 250mg. tablets for
9 administration to Patient C. H. A. (#449836) by accessing the Pyxis medication dispensing
10 system using the access code of another nurse. Thereafter, Respondent failed to record or
11 document the administration of that medication on any patient medication administration record,
12 or to otherwise account for the disposition of that medication.

13 35. Patient E. D. (#450797). On or about May 4, 2002, at approximately
14 1153 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
15 250mg. tablets for administration to Patient E. D. (#450797) by accessing the Pyxis medication
16 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
17 record or document the administration of that medication on any patient medication
18 administration record, or to otherwise account for the disposition of that medication.

19 36. Patient J. H. (#433978). On or about May 4, 2002, at approximately
20 0940 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl
21 Citrate tablets for administration to Patient J. H. (#433978) by accessing the Pyxis medication
22 dispensing system using the access code of another nurse. That same day, at approximately 1644
23 hours, without a physician's order to do so, Respondent obtained two 250mg. Fentanyl Citrate
24 tablets for administration to Patient J. H. (#433978) by accessing the Pyxis medication
25 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
26 record or document the administration of that medication on any patient medication
27 administration record, or to otherwise account for the disposition of that medication.

28 ///

1 37. Patient M. A. (#407666). On or about May 4, 2002, at approximately
2 1915 hours, without a physician's order to do so, Respondent obtained two Fentanyl Citrate
3 250mg. tablets for administration to Patient M. A. (#407666) by accessing the Pyxis medication
4 dispensing system using the access code of another nurse. Thereafter, Respondent failed to
5 record or document the administration of that medication on any patient medication
6 administration record, or to otherwise account for the disposition of that medication.

7 b. Memorial Hospital, Modesto, California.

8 1. Patient #1. On or about February 5, 2003, at approximately 0717
9 hours, Respondent obtained one 100mg. dose of Demerol for administration to Patient #1. At
10 approximately 0751 hours, Respondent obtained another 100mg. dose of Demerol for
11 administration to Patient #1. And, at approximately and 0831 hours, Respondent obtained
12 another 100mg. dose of Demerol for administration to Patient #1. Thereafter, Respondent failed
13 to record or document the administration of that medication on any patient medication
14 administration record, or to otherwise account for the disposition of that medication.

15 2. Patient #3. On or about February 6, 2003, at approximately 0805
16 hours, Respondent obtained one 100mg. dose of Demerol for administration to Patient #3 by
17 accessing the Pyxis medication dispensing system using the access code of another nurse. That
18 same day, at approximately 1832 hours, Respondent obtained one 100mg. dose of Demerol for
19 administration to Patient #3 by accessing the Pyxis medication dispensing system using the
20 access code of another nurse. Thereafter, Respondent failed to record or document the
21 administration of that medication on any patient medication administration record, or to
22 otherwise account for the disposition of that medication.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 3. Patient #5. On or about February 11, 2003, at approximately 0650
2 hours, without a physician's order to do so, Respondent obtained one 100mg. dose of Demerol
3 for administration to Patient #5 by accessing the Pyxis medication dispensing system using the
4 access code of another nurse. That same day, at approximately 0837 hours, without a
5 physician's order to do so, Respondent obtained one 100mg. dose of for administration to Patient
6 #5 by accessing the Pyxis medication dispensing system using the access code of another nurse.
7 Thereafter, Respondent failed to record or document the administration of that medication on
8 any patient medication administration record, or to otherwise account for the disposition of that
9 medication.

10 4. Patient #7. On or about February 12, 2003, at approximately 1715
11 hours, without a physician's order to do so, Respondent obtained two 100mg. doses of Demerol
12 and one 10mg. dose of Valium for administration to Patient #7 by accessing the Pyxis
13 medication dispensing system using the access code of another nurse. Thereafter, Respondent
14 failed to record or document the administration of those medications on any patient medication
15 administration record, or to otherwise account for the disposition of those medications.

16 5. Patient #8. On or about February 14, 2003, at approximately 1210
17 hours, without a physician's order to do so, Respondent obtained one 100mg. dose of Demerol
18 for administration to Patient #8 by accessing the Pyxis medication dispensing system using the
19 access code of another nurse. That same day, at approximately 1801 hours, without a
20 physician's order to do so, Respondent obtained one 100mg. dose of Demerol for administration
21 to Patient #8 by accessing the Pyxis medication dispensing system using the access code of
22 another nurse. Thereafter, Respondent failed to record or document the administration of that
23 medication on any patient medication administration record, or to otherwise account for the
24 disposition of that medication.

25 ///

26 ///

27 ///

28 ///

1 6. Patient #2. On or about February 15, 2003, at approximately 1451
2 hours, without a physician's order to do so, Respondent obtained one 10mg. dose of Morphine
3 for administration to Patient #2. Thereafter, Respondent failed to record or document the
4 administration of that medication on any patient medication administration record, or to
5 otherwise account for the disposition of that medication.

6 7. Patient #4. On or about February 16, 2003, at approximately 0707
7 hours, Respondent obtained two 100mg. doses of Demerol for administration to Patient #4 by
8 accessing the Pyxis medication dispensing system using the access code of another nurse. At
9 approximately 0918 hours, Respondent obtained two additional 100mg. doses of Demerol for
10 administration to Patient #4 by accessing the Pyxis medication dispensing system using the
11 access code of another nurse. At approximately 1151 hours, Respondent obtained two additional
12 100mg. doses of Demerol for administration to Patient #4 by accessing the Pyxis medication
13 dispensing system using the access code of another nurse. And, at approximately 1331 hours,
14 Respondent obtained two additional 100mg. doses of Demerol for administration to Patient #4
15 by accessing the Pyxis medication dispensing system using the access code of another nurse.
16 Thereafter, Respondent failed to record or document the administration of that medication on
17 any patient medication administration record, or to otherwise account for the disposition of that
18 medication.

19 8. Patient #6. On or about March 4, 2003, at approximately 0739 hours,
20 without a physician's order to do so, Respondent obtained two 100mg. doses of Demerol for
21 administration to Patient #6 by accessing the Pyxis medication dispensing system using the
22 access code of another nurse. That same day, at approximately 1002 hours, without a
23 physician's order to do so, Respondent obtained two 100mg. doses of Demerol for
24 administration to Patient #6 by accessing the Pyxis medication dispensing system using the
25 access code of another nurse. Thereafter, Respondent failed to record or document the
26 administration of that medication on any patient medication administration record, or to
27 otherwise account for the disposition of that medication.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Obtaining, Possessing, and Self-Administering Controlled Substances)

3 19. Respondent's license is subject to discipline under Code section 2761,
4 subdivision (a), for acts of unprofessional conduct, as defined by Code section 2762, subdivision
5 (a) (unlawfully obtaining, possessing, and self-administering controlled substances), as set forth
6 below:

7 a. **Saddleback Memorial Center, Laguna Hills, California.**

8 1. On multiple occasions from on or about March 11, 2002, until May 6,
9 2002, while employed at Saddleback Memorial Medical Center, located in Laguna Hills,
10 California, and as set forth under paragraphs 15 and 16, and under paragraphs 18(a)(1) through
11 18(a)(36), Respondent possessed Fentanyl, a controlled substance, in violation of Health and
12 Safety Code section 11350, subdivision (a).

13 2. On multiple occasions from on or about March 11, 2002, until May 6,
14 2002, while employed at Saddleback Memorial Medical Center, located in Laguna Hills,
15 California, and as set forth under paragraphs 15 and 16, and under paragraphs 18(a)(1) through
16 18(a)(36), Respondent obtained Fentanyl, a controlled substance, by fraud, deceit,
17 misrepresentation or subterfuge, or by the concealment of material facts, in violation of Health
18 and Safety Code sections 11173, subdivision (a),

19 3. On multiple occasions from on or about March 11, 2002, until May 6,
20 2002, while employed at Saddleback Memorial Medical Center, located in Laguna Hills,
21 California, Respondent self-administered Fentanyl, a controlled substance, without lawful
22 authority to do so.

23 b. **Memorial Hospital, Modesto, California.**

24 1. On multiple occasions from on or about October 7, 2002, until March
25 31, 2003, while employed at Memorial Hospital, located in Modesto, California, and as set forth
26 under paragraphs 18(b)(1) through 18(b)(8), Respondent possessed Demerol, Morphine, and/or
27 Valium, controlled substances, in violation of Health and Safety Code section 11350,
28 subdivision (a).

1 2. On multiple occasions from on or about October 7, 2002, until March
2 31, 2003, while employed at Memorial Hospital, located in Modesto, California, and as set forth
3 under paragraphs 18(b)(1) through 18(b)(8), Respondent obtained Demerol, Morphine, and/or
4 Valium, controlled substances, by fraud, deceit, misrepresentation or subterfuge, or by the
5 concealment of material facts, in violation of Health and Safety Code section 11173, subdivision
6 (a),

7 3. On multiple occasions from on or about October 7, 2002, until March
8 31, 2003, while employed at Memorial Hospital, located in Modesto, California, Respondent
9 self-administered Demerol and Morphine, controlled substances, without lawful authority to do
10 so.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 (Conviction of Crime)

13 20. Respondent's license is subject to discipline under Code sections 490 and 2761,
14 subdivision (f), for conviction of a crime substantially related to the qualifications, functions, or
15 duties of a registered nurse, in that on or about June 30, 2005, in the case entitled, *The People v.*
16 *Kimberly Obrien* (Super. Ct. Stanislaus County, No. 1086866), Respondent was convicted by the
17 court upon a plea of guilty to one count of violating Health and Safety Code section 11173(a)
18 (obtaining a controlled substance by fraud), a felony.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 (Conviction of Crime)

21 21. Respondent's license is subject to discipline under Code sections 490 and 2761,
22 subdivision (f), for conviction of a crime substantially related to the qualifications, functions, or
23 duties of a registered nurse, in that on or about November 16, 2005, in the case entitled, *The*
24 *People v. Kimberly Diane Obrien* (Super. Ct. Stanislaus County, No. 1099767), Respondent was
25 convicted by the court upon a plea of nolo contendere to violating sections 23152(a) (driving
26 while under the influence of alcohol/drugs.) and 14601.1(a) (driving with a suspended/revoked
27 license.) of the Vehicle Code, misdemeanors.

28 ///

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Conviction of Crime)

3 22. Respondent's license is subject to discipline under Code sections 490 and 2761,
4 subdivision (f), for conviction of a crime substantially related to the qualifications, functions, or
5 duties of a registered nurse, in that on or about December 27, 2006, in the case entitled, *The*
6 *People v. Kim Diane Obrien* (Super. Ct. San Joaquin County, No. A20973), Respondent was
7 convicted by the court upon a plea of nolo contendere to violating sections 14601.1(a) (driving
8 with a suspended/revoked license.) and 40508(a) (failure to appear.) of the Vehicle Code,
9 misdemeanors.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 (Conviction of Crime)

12 23. Respondent's license is subject to discipline under Code sections 490 and 2761,
13 subdivision (f), for conviction of a crime substantially related to the qualifications, functions, or
14 duties of a registered nurse, in that on or about July 18, 2008, in the case entitled, *The People v.*
15 *Kimberly Diane Cochrun* (Super. Ct. Orange County, No. 08WM03942), Respondent was
16 convicted by the court upon a plea of guilty to violating five (5) counts of section 484(a)-488
17 (petty theft.); three (3) counts of section 459-460(b) (burglary; second degree, commercial
18 structure.); four (4) counts of section 484e(a) (fraudulent acquisition, use, or transfer of access
19 cards.); and three (3) counts of section 470(b) (acts constituting forgery.) of the Penal Code,
20 misdemeanors.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing the Board issue a decision:

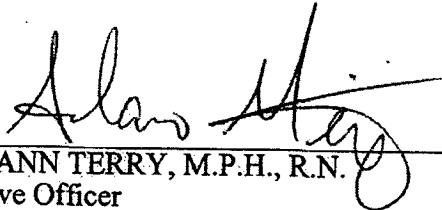
4 1. Revoking or suspending Registered Nurse License Number 556114 issued to
5 Kimberly Diane O'Brien, also known as Kimberly Obrien, also known as Kimberly Diane
6 Cochrun;

7 2. Ordering Kimberly Diane O'Brien, also known as Kimberly Obrien, also known
8 as Kimberly Diane Cochrun, to pay the reasonable costs incurred by the Board in the
9 investigation and enforcement of this case pursuant to Code section 125.3; and,

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 8/1/2008

12
13 for


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant